

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UJU ONUACHI,	)	CIVIL ACTION NO.: 4:17-CV-3114
)	
Plaintiff,)	
)	
vs.)	
)	
MASTER BUILDERS INC., D/B/A	)	MOTION TO DISMISS PLAINTIFF'S
HARRY S. PETERSON COMPANY,	)	COMPLAINT ON BEHALF OF
HARRY S. PETERSON COMPANY,	)	DEFENDANTS MASTER BUILDERS
WESTERN WATERPROOFING	)	INC., D/B/A HARRY S. PETERSON
CO., INC. A SUBSIDIARY OF THE	)	COMPANY, HARRY S. PETERSON
WESTERN GROUP, THE ALLIANCE	)	COMPANY, AND WESTERN
GROUP INC., MEYLAN	)	WATERPROOFING CO., INC., A
ENTERPRASISE INC., ALEGENT	)	SUBSIDIARY OF THE WESTERN
HEALTH IMMANUEL MEDICAL	)	GROUP
CENTER, BODO W. TREU MD, DAVID)	
A. STERNS MD, REBECCA S.)	
RUNDLETT MD, DENNIS R.)	
RIEKENBERG, JOHN R.)	
TIMMERMIER, AND JOHN K. GREEN,)	
)	
Defendants.)	
)	

COME NOW Defendants Master Builders, Inc., D/B/A Harry S. Peterson

Company, Harry S. Peterson Company, and Western Waterproofing Co., Inc., a Subsidiary of The Western Group, and moves this Court, pursuant to FRCP 12(b)(1) and 12(b)(6) for an Order dismissing the Plaintiff's Complaint for the following reasons:

1. This Court lacks subject matter jurisdiction over this case. No federal question has been raised to satisfy the requirements of 28 U.S.C § 1331. Diversity jurisdiction under 28 U.S.C § 1332 does not exist because the Plaintiff is a resident of Nebraska, and many of the Defendants are residents of Nebraska.
2. Plaintiff's Complaint is based on an injury that he alleges occurred in the course and scope of his employment. As such, it is barred because the

Nebraska Worker's Compensation Court has exclusive jurisdiction over the matter.

3. Plaintiff's Complaint is barred by res judicata or claim preclusion and issue preclusion.

WHEREFORE, these Defendants respectfully ask that this Court dismiss Plaintiff's Complaint with prejudice.

DATED this 22nd day of September, 2017.

MASTER BUILDERS, INC., d/b/a HARRY S.
PETERSON COMPANY, HARRY S.
PETERSON COMPANY, AND WESTERN
WATERPROOFING CO., INC., A
SUBSIDIARY OF THE WESTERN GROUP,
Defendants,

By: /s/ Krista M. Carlson
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CERTIFICATE OF SERVICE

I electronically filed the foregoing ***Motion to Dismiss Plaintiff's Complaint on Behalf of Defendants Master Builders Inc., d/b/a Harry S. Peterson Company, Harry S. Peterson Company, and Western Waterproofing Co., Inc., a subsidiary of The Western Group*** on this 22nd day of September, 2017, with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

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and I hereby certify that I have mailed by United States Postal Service the foregoing document to the following non CM/ECF participants:

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